

A RESOLUTION BY

A RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A SEVERANCE BENEFITS INCENTIVE AGREEMENT WITH BENJAMIN R. DECOSTA, AVIATION GENERAL MANAGER UNTIL JUNE 30, 2010; AND FOR OTHER PURPOSES.

WHEREAS, the City of Atlanta is engaged in an ambitious and much needed expansion program for Hartsfield Jackson Atlanta International Airport and continuity of the proven leadership of its Aviation General Manager, Benjamin R. DeCosta, is essential to the Airport Development Program; and

WHEREAS, the Aviation General Manager, through past performance, has proven to be highly competent in the exercise of his job duties, and has served in a role of critical importance to the growth and development of the Airport; and

WHEREAS, the proper administration and continued development of the Airport (heralded as the busiest airport in the world) is of utmost importance to the City's future, and necessary for the successful operation of the National Air Transportation System of the United States; and

WHEREAS, the Aviation General Manager, because of proven abilities and experience is a highly respected and sought after manager in the airport administration industry; and

WHEREAS, Aviation General Manager has achieved his accreditation by the American Association of Airport Executives, and is a leader in the airport industry and currently serves on the Board of Directors of the Airport Council International – North America and the American Association of Airport Executives, and is also the North American observer/representative to the ACI World Board; and

WHEREAS, renegotiations of the master lease, which expires on September 20, 2010, is a critical undertaking involving a multitude of issues such as airport operations, revenue and capital investment; and

WHEREAS, design and construction costing billions of dollars in airport expansion are underway including the new International Terminal, the South Terminal Complex, Expansion of the Central Passenger Terminal Complex and Consolidated Rental Car Facility (CONRAC); and

WHEREAS, response to major issues and change in the aviation industry for airlines and airports such as security of an evolving terrorist threat, risks of an Asian Flu pandemic, airline financial health, passenger demands for a better travel experience and use of technology to keep Atlanta among the top airports in the world; and

WHEREAS, the growth of the Atlanta region will require the expansion of and investment in the world's busiest airport and possibly the planning for a second regional airport; and

WHEREAS, the Airport operations increased levels of customer satisfaction, successfully completed the 5th runway, replaced runway 8R/26L in 60 days, and improved female and minority participation levels in construction projects; and

WHEREAS, the City desires to offer the Aviation General Manager an Executive Severance Benefits Incentive Agreement attached to this Resolution to entice him to remain employed by the City in the position of Aviation General Manager for the Airport until *June 30, 2010*.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA:

SECTION 1: The Mayor is hereby authorized to execute the attached Executive Severance Benefits Incentive Agreement with Benjamin R. DeCosta, Aviation General Manager, at a annualized base salary of \$255,091, with annual increases of four percent (4%) and certain other incentives and benefits. In the event other employees receive a different amount, it shall not impact the 4% in this Agreement. The term of the Agreement shall begin upon the effective date of this Resolution and continue until *June 30, 2010*, following the execution of the agreement.

SECTION 2: That the severance benefits authorized by this resolution pursuant to the terms in the attached Executive Severance Benefits Incentive Agreement shall not be payable if the Executive's appointment is terminated for cause as defined by the Agreement.

SECTION 3: That the Executive Severance Benefits Incentive Agreement shall not become binding upon the City, and the City shall incur no obligation or liability there under until the same has been approved as to form by the City Attorney and signed by the Mayor and delivered to Benjamin R. DeCosta.

EXECUTIVE SEVERANCE BENEFITS INCENTIVE AGREEMENT

This EXECUTIVE SEVERANCE BENEFITS INCENTIVE AGREEMENT is made and entered into this ____ day of March 2007, by and between the City of Atlanta, ("City" or "Employer"), and BENJAMIN R. DECOSTA, a Georgia resident ("Executive").

BACKGROUND AND PURPOSE

The Executive is currently employed by the City in the position of General Manager for Hartsfield-Jackson Atlanta International Airport (the "Airport"). Both the City and the Executive desire to continue their employment relationship.

WHEREAS, the City of Atlanta, in large part through the Executive's leadership, is currently engaged in an ambitious and much needed expansion program for the Airport; and

WHEREAS, the Executive, through past performance, has proven himself to be highly competent in the exercise of his duties, and has served in a role of critical importance to the growth and development of the Airport; and

WHEREAS, the proper administration and continued development of the Airport is of utmost importance to the City's future; and

WHEREAS, the proper administration and continued development of the Airport (heralded as the busiest airport in the world) is critical and absolutely necessary to the successful control and operation of air traffic in the United States; and

WHEREAS, the Executive, because of his proven abilities and value in the marketplace has other career opportunities; and

WHEREAS, the City believes that the stability in the General Manager position is crucial to the Airport's future success (including, but not limited to, the current Development Program).

The City hereby agrees to provide the Executive the incentives set forth below to entice him to remain employed by the City in the position of general manager for Hartsfield-Jackson Atlanta International Airport until *June 30, 2010*, following the full execution of this Agreement.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises, mutual promises, covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. **Employment and Salary.** The City agrees to continue to employ the Executive for a period from the date and year first above written until **June 30, 2010**, subject to the following terms: an annualized base salary of \$255,091, with annual increases of 4%, a \$10,000 annual contribution to the city's deferred compensation program, and twenty-five (25) days of annual leave a year for the term of this agreement. Furthermore, the Executive will be subject to the same terms which governed his past and present employment with the City, including employment-at-will, with the exception that the City agrees to pay Executive the severance benefits as set forth below in the event that the City decides in the future to involuntarily terminate the Executive's employment.
2. **Severance Incentive.** In the event the City terminates for no cause the Executive's employment within one (1) year of the signing of this Agreement, the City agrees to pay the Executive, in addition to any other severance benefits owed by the City, a one time salary payment of the total months remaining in the agreement at the Executive's then existing rate of pay.

In the event that the City terminates the Executive's employment outside of one (1) year of the signing of this Agreement, the City agrees to pay the Executive in addition to any other severance benefits owed by the City, a one time payment of the total remaining months in the agreement at the Executive's then existing rate of pay.

3. **Exception for Cause Termination.** The provisions of the preceding paragraph shall not be applicable in the event that termination of the Executive is warranted due to gross negligence in performance of his job duties or if the Executive is convicted of a crime.
4. **Termination by Executive.** Nothing in this Agreement should be construed and limiting in any way the Executive's right to terminate his at-will employment with the City. Upon such termination, however, whether it occurs during or following the employment period mentioned (post this agreement), Executive shall not be entitled to any severance benefits mentioned hereinabove.

5. **Miscellaneous.**

- a. This Agreement contains the entire agreement and understanding concerning the subject matter hereof between the parties hereto. No waiver, termination or discharge of this Agreement, or any of the terms or provisions hereof, shall be binding upon either party hereto unless confirmed in writing. This Agreement may not be modified or amended, except by a writing executed by both parties hereto. No waiver by either party hereto of any term or provision or to exercise any right or remedy in the event of any default, whether or not similar.
- b. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.
- c. Executive may not assign this Agreement, in whole or in part, without the prior written consent of the City, and any attempted assignment not in accordance herewith shall be null and void and of no force or effect.
- d. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

- e. The headings contained herein are for the convenience of the parties only and shall not be interpreted to limit or affect in any way the meaning of the language contained in this Agreement.
- f. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same Agreement. Any signature page of any such counterpart, or electronic facsimile thereof, may be attached or appended to any other counterpart to complete a fully executed counterpart of this Agreement, and any telecopy or other facsimile transmission of any signature shall be deemed an original and shall bind such party.
- g. If any provision of this Agreement shall be held void, voidable, invalid, or inoperative, no other provision of this Agreement shall be affected as a result thereof, and accordingly, the remaining provisions of this Agreement shall remain in full force and effect as though such void, voidable, invalid or inoperative provision had not been contained herein.
- h. This Agreement shall not be construed more strongly against either party hereto, regardless of which party is responsible for its preparation.
- i. Upon reasonable request of the other party, each party hereto agrees to take all actions, including, without limitation, the execution of certificates, documents or instruments, necessary or appropriate to give effect to the terms and conditions set forth in this Agreement.
- j. This Agreement shall not become binding upon the City and the City shall incur no obligation or liability there under until same has been executed by the Mayor and Benjamin R. DeCosta.

IN WITNESS WHEREOF, the parties hereto have executed, or caused their duly authorized representatives to execute, this Agreement as of the day and year first above written.

THE CITY OF ATLANTA

By: _____
MAYOR **Date**

By: _____
BENJAMIN R. DECOSTA **Date**

By: _____
ELIZABETH CHANDLER **Date**

City of Atlanta Government

Estimate of Total Compensation Package

NAME: Benjamin DeCosta

POSITION: Aviation General Manager

This personalized sheet will provide you with valuable information about your *TOTAL COMPENSATION* package. The figures listed below represent the dollar value of your direct and indirect compensation for one year. This document is only an *estimate* of your total annual compensation based on the proposed salary.

What is your Total Compensation?

Your *Total Compensation* is more than the salary you see reported on your W-2 each year. The City of Atlanta also makes payments toward benefits, goods and services for you as an employee. Together, your salary and indirect compensation make up your *Total Compensation package*.

Your Proposed Salary, Annualized:

\$255,091

You are eligible for 9 paid holidays annually. Your salary includes the value of those holidays. The *estimated* annual value of holiday pay is 9 times your daily rate of **\$981** or **\$8,829**. Your daily rate is calculated by dividing the proposed annual salary by 260 (actual work days in a calendar year). Your salary also includes the value of your annual leave and sick leave. You receive **25** days of annual leave and **13** days sick leave each year. Therefore, the *estimated* value of your annual leave is **\$24,525**. The *estimated* value of your sick leave is **\$12,753**.

In accordance with your Executive Severance Benefits Incentive Agreement, the City agrees to provide annual increases of **4%** to your base salary.

Your Defined Contribution Pension Plan:

\$15,305

Each payday the City of Atlanta contributes toward your future retirement through a city-sponsored pension program. You also make a contribution to this fund. The City of Atlanta currently matches your 6% pension contribution with an additional 6%. The City's approximate annual contribution, based on your *estimated* annual salary, is valued at **\$15,305**.

Your Health Care and Dental Care Benefits:

\$2,919*

Eligibility for **health care benefits** is one of the most valued employer-provided benefits. The City health care plans include PPO, POS and HMO. The City pays an amount equal to 79% of the middle carrier's premium, which ranges from **\$2,708** annually for an employee and up to **\$8,936** for an employee and family. The employee contribution depends on the health care plan and level of coverage selected. (**Special Note:** The city contribution towards insurance coverage begins on the 91st day of employment.)

Dental Insurance is an additional optional benefit. The City pays an amount equal to 75% of the carrier's premium, which ranges from **\$211** annually for an employee up to **\$709** for an employee and family. The employee contribution depends on the dental care plan and level of coverage selected.

* This amount is based on the City's contribution for employee only.

Your Life Insurance:

\$23

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Estimate of Total Compensation Package
Benjamin DeCosta, Aviation General Manager
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The minimum amount of life insurance coverage is one times your base salary. The City of Atlanta pays for the first \$10,000 in basic life insurance, at \$23 per employee per year. If you choose this option, you may also enroll in the voluntary supplemental plan and increase your life insurance coverage, in increments of \$10,000, up to three times your annual salary and can not exceed \$250,000.

Your Medicare Coverage: **\$3,699**

Medicare: Since 1986, the City of Atlanta has participated in the Federal Medicare retirement health care program. The City matches your contribution of 1.45% of your *estimated* annual salary. Your *estimated* Medicare benefit is **\$3,699** annually.

Your Other Benefits: **\$23,946**

Transportation: A car, gas and maintenance are provided for the above-referenced position because the position is considered a 24-hour, 7-day-a-week job. The estimated cost to the City for providing a vehicle is \$7,846 annually. The estimated cost to provide gas for a city-owned vehicle is \$1,700. The estimated maintenance cost to the city per vehicle is \$3,200 for a total vehicle benefit of **\$12,746** annually. (For IRS compliance, \$1,095 is *added* to your annual gross taxable income.)

Blackberry Cellular Telephone Service: Blackberry cellular telephone service is included in this package. The City of Atlanta pays for all "official" calls. The *estimated* average annual value of this service is **\$1,200**.

Supplemental Flexible Benefits Plan:

Under this plan, you can use pre-tax dollars to pay for several different insurance and benefits programs. You may elect up to \$5,000 per year for dependent care reimbursement and up to \$2,500 per year for unreimbursed medical expenses. The following supplemental insurance plans are available: cancer coverage, hospital intensive care, hospital indemnity, accidental/disability, and personal short-term disability.

Deferred Compensation Plan: The City of Atlanta provides a "tax deferred" compensation plan, offering a choice of three companies for investment of tax-deferred earnings. An employee may contribute up to \$15,500 annually to this plan (or \$20,500 for employees aged 50 or older or \$31,000 if employee plans to retire in 3 years).

In accordance with your Executive Severance Benefits Incentive Agreement, the City agrees to contribute **\$10,000** annually to the deferred compensation plan on your behalf.

Education Benefit: The City of Atlanta participates in a free tuition program (for most programs) with Georgia State University. The employee is responsible for any additional fees and books.

Atlanta City Employee Credit Union: The City of Atlanta provides employees with credit union services.

Savings Bond: You may purchase United States savings bonds through our payroll deduction plan.

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Total Estimated Compensation Package **\$300,983**

When you add it up, your salary is only a part of your overall total compensation package. The value of your *estimated* total compensation package is **\$300,983** annually.

This offer is contingent upon a satisfactory background evaluation and assessment.

Signature

Date Accepted

RCS# 1115
4/16/07
3:19 PM

Atlanta City Council

REGULAR SESSION

07-R-0604

TO TRANSPORTATION COMMITTEE

REFER

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 1
ABSENT 1

Y Smith	Y Archibong	E Moore	Y Mitchell
NV Hall	Y Fauver	B Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
NV Winslow	Y Muller	Y Sheperd	NV Borders

07-R-0604

**ITEMS
REMOVED
FROM
CONSENT AGENDA**

I.D.#: 07-R-0604

PAGE: 21

BY: Councilmember Moller

COMMITTEE: Trans

DATE: 4/18, 2007

**LEGISLATIVE COUNSEL
REQUEST FOR LEGISLATION**

For Legislative Counsel Use Only

_____ Date Received _____ Complete _____ Incomplete (Date returned: _____)

_____ Date of Department Consultation _____ Date of Finance Department Consultation

Commissioner Notified: _____ Yes _____ No If No, Why? _____

Legislation Required
_____ Yes _____ No

Legislation Type
_____ Resolution _____ Ordinance

Amends the Code
_____ Yes _____ No

Blueback Prepared
_____ Yes _____ No

Commissioner Signature _____

Council Members Only:

Authority to speak to Subject Matter Attorney _____ Yes _____ No
Authority to speak to Department _____ Yes _____ No

Date Submitted: March 19, 2007

Department Submitting Request: DHR

Person Submitting Request: Thomasenia Robinson Extension: _____
6649

Bureau/Division Manager: Benita Ransom Extension: 6360

Requesting preliminary meeting with Legislative Counsel attorney? ☐ Yes ☒ No

Subject Matter of the Meeting _____

Cycle Number/Requested Full Council Date (not earlier than 4 weeks from date of submission):

If this must be submitted to Council in fewer than 4 weeks explain why. Please identify consequences if legislation is not submitted for requested cycle. All non-conforming requests must have Commissioner approval.

Part II: Legislative White Paper: (This portion of the Legislative Request Form will be shared with City Council members and staff)

A. To be completed by Legislative Counsel:

Committee of Purview:

Caption:

Council Meeting Date:

Requesting Dept.:

B. To be completed by the department :

1. Please provide a summary of the purpose of this legislation (Justification Statement).

Example: The purpose of this legislation is to anticipate funds from a local assistance grant to purchase child safety seats.

The purpose of this resolution is to extend the severance benefit incentive agreement for the Aviation General Manager, Benjamin R. DeCosta until June 30, 2010 to maintain continuity of the proven leadership of its Aviation General Manager, Benjamin R. DeCosta, which is essential to the Airport Development Program.

2. Please provide background information regarding this legislation.

Example: The task force of homelessness conducted a study regarding homelessness, its impact and consequences on the City. This resolution reflects the Mayor's desire to open a twenty-four hour center that will respond to the needs of the homelessness in Atlanta.

The Aviation General Manager, Benjamin R. Decosta has an existing agreement which is scheduled to end this month Resolution 05-R-0502.

3. If Applicable/Known:

(a) Contract Type (e.g. Professional Services, Construction Agreement, etc): n/a

(b) Source Selection: n/a

(c) Bids/Proposals Due: n/a

(d) Invitations Issued: n/a

(e) Number of Bids: n/a

(f) Proposals Received: n/a

(g) Bidders/Proponents: n/a

(h) Term of Contract: n/a

4. Fund Account Center: n/a

5. Source of Funds: *Example: Local Assistance Grant* n/a

6. Fiscal Impact: n/a

Example: This legislation will result in a reduction in the amount of _____ to Fund Account Center Number _____.

7. Method of Cost Recovery: n/a

Examples:

- a. *Revenues generated from the permits required under this legislation will be used to fund the personnel needed to carry out the permitting process.*
- b. *Money obtained from a local assistance grant will be used to cover the costs of this Summer Food Program.*

This Legislative Request Form Was Prepared By: Thomasenia Robinson